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Veronica L. Manolio
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June 12, 2023

Mr. Paul Levine
Paul M. Levine, P.C.
8502 E. Via de Ventura, Suite 200
Scottsdale, Arizona 85258

Sent Via Email Only to:
plevine@pmlvinepc.com

Re: *Labor Smart, Inc. v. Jason Tucker, 22-cv-00357-JJT*

Dear Paul,

I hope this letter finds you well (and not suffocated by the June heat).

I am writing only to make sure you and I are on the same page regarding our recent Stipulation to Extend Time (Doc. 132) and the Order granting me until today to file Answers/responsive pleadings for the Tucker Defendants (Doc. 133).

It is my belief that by filing my Motion to Dismiss (Doc. 134), the time for any Answer is tolled until 14 days after the Court rules on the motion. Under Rule 14(a)(4)(A) FRCP and multiple Arizona federal cases, time should be extended here even though I acknowledge that my Motion to Dismiss is only partial (seeking dismissal of Count I only). *See, e.g., ThermoLife Intern., LLC v. Gaspari Nutrition, Inc.*, 2011 U.S. Dist. LEXIS 145504, 2011 WL 6296833 (D. Ariz.) (other, internal citations omitted) (Even when a pending motion to dismiss may only address some of the alleged claims, the motion to dismiss tolls the time to respond to all claims under Rule 12(a)(4)); *see also, Pestube Systems, Inc. v. HomeTeam Pest Defense, LLC*, 2006 U.S. Dist. LEXIS 34337, 2006 WL 1441014 (D. Ariz.) (other, internal citations omitted) (The majority of courts have expressly held that even though a pending motion to dismiss may only address some of the claims alleged, the motion to dismiss tolls the time to respond to all claims.)

I do not intend this to be an argument of any type. I simply want to make sure you know why I am not filing an Answer to Counts II and III today. I also want to be sure I am clear about preserving all rights and letting you know, in advance, that the Answer may contain Counterclaim(s) if my continued research determines that affirmative offset/recoupment defense(s) are not sufficient to protect my clients.

Mr. Paul Levine
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If you believe I am mistaken, please let me know so we can discuss how best to resolve the matter/issue. Feel free to simply shoot me an email or leave a voicemail if that is easier for you than writing back in letter format.

Very sincerely,

Veronica L. Manolio

Veronica L. Manolio

Veronica L. Manolio

From: Paul Levine <plevine@pmlevinepc.com>
Sent: Tuesday, June 13, 2023 6:14 AM
To: Veronica L. Manolio
Cc: Dominika Dydo-Eyerman; Lindsay Cook
Subject: RE: Labor Smart/Tucker

I am fine with the Motion being a responsive pleading and no Answer until the Court rules.

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Federal law requires us to advise you that communication with our office could be interpreted as an attempt to collect a debt and that any information obtained will be used for that purpose.

From: Veronica L. Manolio <vmanolio@mf-firm.com>
Sent: Monday, June 12, 2023 5:36 PM
To: Paul Levine <plevine@pmlevinepc.com>
Cc: Dominika Dydo-Eyerman <DEyerman@pmlevinepc.com>; Lindsay Cook <lcook@mf-firm.com>
Subject: RE: Labor Smart/Tucker

Hi Paul,

Please see the attached letter regarding the deadline(s) that show on the calendar/docket for today's date.

Thank you.

Veronica



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